

Jill Ryther, SBN 26016
RYTHER LAW GROUP
8560 W. Sunset Canyon Blvd., Suite #500
West Hollywood, CA 90069
Ph: 424-274-4706 Fx: 818-347-4128

Attorney for Plaintiff
KENNETH STETLER

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

KENNETH STETLER

Plaintiff,

vs.

CITY OF SAN DIEGO, a public entity; SAN
DIEGO POLICE DEPARTMENT, a public
entity; and SAN DIEGO POLICE OFFICER
SLATER, individually and in his official
capacity,

Defendants.

Case No. **'15CV1110 WQHJLB**

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

1. Trespass to Chattel [Willful Injury to Animals]
2. Conversion
3. 42 US §1983
4. Negligence/Negligence Per Se/Strict Liability (Government)
5. Negligence/Negligence Per Se/Strict Liability (Individual)
6. Intentional Infliction Of Emotional Distress

DEMAND FOR JURY TRIAL

I.

INTRODUCTION

Plaintiff herein brings this suit for the improper and unlawful shootings of his family companions, Danni and Pepper.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.

JURISDICTION AND VENUE

1. Jurisdiction of this court arises pursuant to Article III Section 2 of the United States Constitution, as well as 28 U.S.C. Section 1331 which states that “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” Federal question jurisdiction arises pursuant to 42 U.S. Section 1983 as well as the Fourth Amendment to the United State Constitution.

2. Venue is proper pursuant to 28 U.S.C § 1391, as the events alleged herein occurred in this district.

III.

PARTIES

3. Plaintiff KENNETH STETLER (hereinafter referred to as “STETLER” or “Plaintiff”) is, and at all times herein mentioned was, a natural person residing in Lemon Grove, California. STETLER is the guardian/owner of the beloved companion canines, Danni and Pepper.

4. Plaintiff is informed and believes, and thereon alleges, that Defendant, CITY OF SAN DIEGO (hereinafter referred to as “CITY OF SAN DIEGO” or “Defendant” or “Defendants”), a public entity is, and at all time herein mentioned was, a City and political subdivision of the State of California, duly organized and existing under the laws of the State of California. CITY OF SAN DIEGO is responsible for the improper and unlawful shootings of DANNI and PEPPER, which resulted in severe injury to DANNI and the death of PEPPER.

5. Plaintiff is informed and believes, and thereon alleges, that Defendant, SAN DIEGO POLICE DEPARTMENT (hereinafter referred to as “SAN DIEGO POLICE DEPARTMENT” or “Defendant” or “Defendants”), a public entity is, and at all times herein mentioned was, a city

1 department and political subdivision of the State of California, duly organized and existing under
2 the laws of the State of California. SAN DIEGO POLICE DEPARTMENT is responsible for the
3 improper and unlawful shootings of DANNI and PEPPER, which resulted in severe injury to
4 DANNI, the death of PEPPER, and harm to Plaintiff.

5
6 6. Plaintiff is informed and believes, and thereon alleges, that Defendant SAN DIEGO
7 POLICE OFFICER SLATER (hereinafter referred to as "OFFICER SLATER" or "Defendant"
8 or "Defendants") is, and at all times herein mentioned was, employed by SAN DIEGO POLICE
9 DEPARTMENT and, in committing the acts and omissions hereinafter alleged, was acting in the
10 course and scope of employment of SAN DIEGO POLICE DEPARTMENT; under the color of
11 authority of the statutes, ordinances, regulations, customs, and usage of the State of California,
12 CITY OF SAN DIEGO, and SAN DIEGO POLICE DEPARTMENT; and pursuant to the to the
13 retention, training, supervision, management, regulation, oversight, discipline, policies, and
14 review of the CITY OF SAN DIEGO and SAN DIEGO POLICE DEPARTMENT. Plaintiff is
15 informed and believes, and thereon alleges, that OFFICER SLATER is responsible for the
16 improper and unlawful shootings of DANNI and PEPPER, which resulted in severe injury to
17 DANNI, the death of PEPPER, and harm to Plaintiff.

18
19
20 7. CITY OF SAN DIEGO, SAN DIEGO POLICE DEPARTMENT, and OFFICER
21 SLATER are, and at all times herein mentioned were, the agents and employees of its/their co-
22 defendants, and, in committing the acts and omissions alleged herein, were acting within the
23 course and scope of such agency and the permission and consent of their co-defendants.

24
25 8. At all times herein mentioned, each Defendant was the agent, partner, joint venturer,
26 and employee of each of the remaining Defendants, and in acting and failing to act as herein
27
28

1 alleged, was acting within the course and scope of each agency, partnership, joint venture, and
2 employment with the advance knowledge, acquiescence, or subsequent ratification of each and
3 every remaining defendant.

4 9. Plaintiff has complied with the California Tort Claims Act by timely filing a claim
5 against CITY OF SAN DIEGO. The claims were rejected on or less than six months ago.
6

7 **IV.**

8 **STATEMENT OF FACTS RELEVANT TO ALL CAUSES OF ACTION**

9 10. Plaintiff was the owner and possessor of two canine companions, including (i) a
10 fourteen-year-old, blind, nearly toothless, female, Shepherd mix named PEPPER, (hereinafter
11 referred to as “PEPPER”) and (ii) PEPPER’s daughter, a ten-year-old, female, Shepherd mix,
12 named DANNI (hereinafter referred to as “DANNI”).
13

14 11. PEPPER and DANNI had been the companion animals of Plaintiff and important
15 members of Plaintiff’s family for many years. Defendants, and each of them, knew or should
16 have known of Plaintiff’s close attachment to his dogs, DANNI and PEPPER, and of DANNI and
17 PEPPER’S special value to Plaintiff.
18

19 12. On or about July 24, 2014, during daylight hours, Plaintiff was outside of his residence
20 with DANNI and PEPPER. During this time, DANNI and PEPPER went into the street to greet
21 and play with a neighbor’s dog, whom the neighbor was walking.
22

23 13. As the dogs were playing, a SAN DIEGO POLICE DEPARTMENT squad car drove
24 down Plaintiff’s street and stopped near the dogs. OFFICER SLATER, who was on duty and
25 operating the squad car, exited the vehicle near the dogs, in front of Plaintiff’s home.

26 14. PLAINTIFF resides in a neighborhood with many families and children. At the time
27
28

1 OFFICER SLATER exited his squad car, numerous residents were outside in close proximity to
2 Plaintiff's home, including many children and their parents.

3 15. Within the view of Plaintiff's neighbors, OFFICER SLATER approached the playful
4 dogs, drawing his gun. Many neighbors observed as OFFICER SLATER aimed his weapon at
5 the dogs with an apparent intention to fire. Upon viewing OFFICER SLATER, gun in hand, one
6 neighbor was so overcome by a perceived threat of imminent harm, that she released the leash of
7 the dog with whom DANNI and PEPPER were playing, and ran away. Likewise observing the
8 threat of imminent harm, other neighbors began yelling to OFFICER SLATER not to shoot the
9 dogs, alerting OFFICER SLATER that the dogs were just playing.
10

11 16. But, without pause, OFFICER SLATER knowingly and intentionally disregarded all
12 warning that the dogs were simply playing, and continued to approach the animals with an
13 apparent intent to fire. By the time OFFICER SLATER reached PEPPER and DANNI,
14 PEPPER—who was blind and nearly toothless—had already sat down calmly in the street.
15 Plaintiff was running toward DANNI and PEPPER, yelling not to shoot. Although within
16 earshot of Plaintiff's cries, OFFICER SLATER intentionally ignored Plaintiff and continued to
17 advance toward the dogs.
18

19 17. When OFFICER SLATER was within a few feet of PEPPER, he shot her twice in the
20 head and killed her. DANNI, understanding that she was in danger, retreated toward Plaintiff's
21 driveway for safety. Plaintiff, still running toward PEPPER's limp body, felt two bullets firing
22 past him. He then looked to see that DANNI had been shot and had fallen down. Plaintiff
23 yelled, "Did you just shoot her?" to OFFICER SLATER.
24

25 18. Despite having been shot in the chest, DANNI got up off the ground and jumped in to
26
27
28

1 OFFICER SLATER's patrol car. OFFICER SLATER, pointing his gun at Plaintiff and DANNI,
2 commanded Plaintiff to get DANNI out of his car so that he could shoot her again. Plaintiff
3 instead took DANNI out of the patrol car and rushed her to see a veterinarian.

4 19. Later that day, officers of the SAN DIEGO POLICE DEPARTMENT informed
5 Plaintiff that Defendant SAN DIEGO POLICE DEPARTMENT would pay the veterinarian bills
6 on behalf of Plaintiff—but they have yet to do so.

8 20. Following the shooting, DANNI was badly injured and the wound took a considerable
9 amount of time to heal. DANNI required extensive veterinary care for treatment of the gunshot
10 wound. DANNI suffered physically, emotionally, and psychologically by having to endure the
11 agony of being shot, watching her mother die, the painful and stressful care of the bullet wound,
12 and the long and difficult healing process.

14 21. PEPPER suffered physically, emotionally and psychologically in the moments she lay
15 dying on the ground.

16 22. Plaintiff suffered emotionally, psychologically, and physically from enduring the fear
17 of imminent harm as OFFICER SLATER fired multiple gunshots past him, the tragic and
18 unjustified death of PEPPER, the tragic and unjustified injury of DANNI, as well as the lengthy
19 and difficult healing process of DANNI. Plaintiff incurred additional damages and expenses as
20 described below.

22 23. Plaintiff suffers from a condition in which a heightened blood pressure causes internal
23 bleeding. Plaintiff's blood pressure was so significantly increased after the shooting that he
24 briefly passed out due to the internal bleeding. As a result of the shooting, Plaintiff has since
25 endured numerous treatments to alleviate his worsened condition. Plaintiff's health has been
26
27
28

1 drastically deteriorating every since this incident.

2 24. Following the shooting, Plaintiff has suffered from anxiety, increase in blood pressure,
3 internal bleeding, multiple surgeries, and depression due to watching his companions suffer and
4 die. His life has been shortened because of this incident. Equitable relief is necessary in this
5 case because relief at law is inadequate. The emotional devastation cannot be quantified, nor can
6 Plaintiff's life and the life of PEPPER. Thus, equitable relief is necessary to provide justice in
7 this case.
8

9 **FIRST CAUSE OF ACTION**

10 **TRESPASS TO CHATTEL - WILLFUL INJURY TO ANIMALS**

11 **(Against All Defendants)**

12 25. The allegations of paragraphs 1-24 are re-alleged and incorporated by reference
13 At all times herein mentioned, Plaintiff was the owner and possessor of DANNI and PEPPER—
14 both gentle, good-natured companion dogs and family pets. At the time of the shooting and
15 killing of PEPPER, and the shooting and critical injury of DANNI, PEPPER and DANNI were
16 were known and enjoyed by Plaintiff, his family, and friends. The companionship of DANNI
17 and PEPPER was irreplaceable in like and in kind.
18
19

20 26. On or about July 24, 2014, OFFICER SLATER, acting within his scope of employment
21 and pursuant to the retention, training, supervision, management, regulation, oversight,
22 discipline, policies, and review of the SAN DIEGO POLICE DEPARTMENT and CITY OF
23 SAN DIEGO, and individually, intentionally, willfully, and in violation of law, shot and injured
24 DANNI and shot and killed PEPPER.
25

26 27. In committing the acts and omissions herein complained, Defendants acted willfully,
27
28

1 in complete disregard of humanity and public safety, and with a willful disregard for both the
2 law and the property rights of private citizens. As a direct and legal result of these breaches by
3 Defendants, the Plaintiff was damaged, in an amount according to proof.

4
5
6 **SECOND CAUSE OF ACTION**

7 **CONVERSION**

8 **(Count One - As to OFFICER SLATER)**

9 28. The allegations of paragraphs 1-27 are re-alleged and incorporated herein, by
10 reference.

11 29. At all times herein mentioned, Plaintiff was the owner of a beautiful and kind dog
12 named PEPPER. Plaintiff was entitled to the possession of his personal property, namely,
13 PEPPER.
14

15 30. On or about July 24, 2014, Defendant willfully and intentionally shot and killed
16 PEPPER, thereby taking and destroying valuable property of the Plaintiff.
17

18 31. Defendant appropriated dominion and control over PEPPER to his own use.

19 32. In acting and failing to act as herein alleged, Defendant actually and substantially
20 interfered with Plaintiff's property rights and converted PEPPER to his own use.

21 33. The above acts were done knowingly, and with gross negligence, in disregard of
22 humanity. Defendant, having shot Plaintiff's dog and caused her death, held himself out as the
23 owner of PEPPER, thereby causing serious and severe emotional distress to Plaintiff, as well
24 complete loss of his property.
25

26 34. As a direct and legal result of the acts and omissions of Defendant, Plaintiff
27
28

1 suffered out-of-pocket losses, including medical expenses for DANNI and Plaintiff himself, as
2 well as other general and special damages, including pain and suffering and severe emotional
3 distress, in an amount, according to proof.

4
5 35. At the time Defendant converted Plaintiff's property, *i.e.*, PEPPER, Defendant acted
6 with malice, oppression, recklessness, and a willful and conscious disregard of humanity and of
7 the rights of Plaintiff.

8
9 36. By reason of these acts, Plaintiff has been oppressed and seeks punitive and exemplary
10 damages, and other damages according to proof.

11 **(Count Two - As to CITY OF SAN DIEGO and SAN DIEGO POLICE DEPARTMENT)**

12 37. The allegations of paragraphs 1-36 are re-alleged and incorporated herein, by
13 reference.

14 38. On or about July 24, 2014, OFFICER SLATER, acting within the scope of his
15 employment and pursuant to the retention, training, supervision, management, regulation,
16 oversight, discipline, policies, and review of the SAN DIEGO POLICE DEPARTMENT and
17 CITY OF SAN DIEGO, willfully and intentionally shot and killed PEPPER, thereby taking and
18 destroying valuable property of the Plaintiff.

19
20 39. OFFICER SLATER, acting within the scope of his employment and pursuant to the
21 retention training, supervision, management, regulation, oversight, discipline, policies, and
22 review of the SAN DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO, willfully and
23 intentionally appropriated dominion and control over PEPPER to his own use.

24
25 40. In acting within the scope of his employment and pursuant to the retention training,
26 supervision, management, regulation, oversight, discipline, policies, and review of the SAN
27

1 DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO as herein alleged, OFFICER
2 SLATER actually and substantially interfered with Plaintiff's rights and converted PEPPER to
3 their/its own use.

4 41. The above acts were done knowingly, with gross negligence, and in disregard of
5 humanity. OFFICER SLATER, on behalf of CITY OF SAN DIEGO and SAN DIEGO POLICE
6 DEPARTMENT, having shot Plaintiff's dog and caused her death, held himself out as the owner
7 of the dog, thereby causing serious and severe emotional distress to Plaintiff.
8

9 42. As a direct and legal result of the acts and omissions of OFFICER SLATER, and the
10 retention training, supervision, management, regulation, oversight, discipline, policies, and
11 review of the SAN DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO, Plaintiff
12 suffered out-of-pocket losses including medical expenses for PEPPER and Plaintiff himself, as
13 well as other general and special damages, including emotional distress, in an amount, according
14 to proof.
15

16 43. At the time defendants converted the property, *i.e.*, PEPPER, OFFICER SLATER,
17 pursuant to the retention training, supervision, management, regulation, oversight, discipline,
18 policies, and review of the SAN DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO
19 acted with malice, oppression, recklessness, and a willful and conscious disregard for humanity
20 and for the rights of Plaintiff.
21

22 44. At the time of the alleged incident, OFFICER SLATER was working in the course and
23 scope of his employment with CITY OF SAN DIEGO, and pursuant to the to the retention
24 training, supervision, management, regulation, oversight, discipline, policies, and review of the
25 SAN DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO. Furthermore, CITY OF
26
27
28

1 SAN DIEGO and SAN DIEGO POLICE DEPARTMENT assented to, ratified, and condoned
2 said conduct.

3
4 **THIRD CAUSE OF ACTION**
5 **VIOLATION OF CIVIL RIGHTS: 42 U.S. §1983**
6 **(Against All Defendants)**
7

8 45. Plaintiff hereby refers to and incorporates by reference paragraphs 1-44 as
9 fully set forth herein.

10 46. On or about July 24, 2014, OFFICER SLATER drove through Plaintiff's neighborhood
11 in broad daylight, stopping at the sight of three dogs playing in the middle of the road. Instead of
12 determining whether the dogs were unattended and what, if any, threat the dogs posed,
13 OFFICER SLATER immediately drew his weapon, in complete disregard of surrounding
14 neighbors and children.
15

16 47. OFFICER SLATER unnecessarily and unlawfully shot both PEPPER and DANNI
17 immediately after OFFICER SLATER exited his patrol car—without taking any time to evaluate
18 whether PEPPER and/or DANNI posed any type of threat whatsoever.
19

20 48. OFFICER SLATER had ample time and opportunity to create a reasonable plan of
21 handling the three dogs in the street, including alternative methods of subduing dogs besides
22 shooting and destroying them. But OFFICER SLATER failed to do so.

23 49. By the time OFFICER SLATER approached the dogs, PEPPER was sitting down, and
24 the dog with which OFFICER SLATER claims PEPPER and DANNI were fighting had already
25 run away. Plaintiff had already identified himself as the guardian/owner of PEPPER and
26 DANNI, and was pleading with OFFICER SLATER not to shoot as he ran toward PEPPER and
27
28

1 DANNI. Though numerous citizens, including many children, were within the close proximity
2 of OFFICER SLATER, he discharged his firearm at least twice in the direction of PEPPER and
3 then at least once in the direction of DANNI. Even after Plaintiff interfered and picked DANNI
4 up, OFFICER SLATER kept his weapon drawn and aimed at DANNI.

5 50. The conduct of Defendants, and each of them, as described in this Complaint
6 interfered with, by the unreasonable and unnecessary destruction of property, the Plaintiff's
7 exercise and enjoyment of rights secured by the Constitution and laws of the United States,
8 including Due Process and Fourth Amendment violations. Such actions are in violation of Title
9 42 U.S. Code §1983 United States Code.
10

11 51. Defendant CITY OF SAN DIEGO has a careless and reckless policy of allowing the
12 employees of the SAN DIEGO POLICE DEPARTMENT to disregard the lives of companion
13 animals, resulting in the destruction of citizens' personal property without lawful justification.
14

15 52. The policies, retention, training, supervision, management, regulation, oversight,
16 discipline, and review of qualifications of the SAN DIEGO POLICE DEPARTMENT and CITY
17 OF SAN DIEGO allow, condone, ratify, and afford the reckless, careless, and
18 erroneous shooting of domestic canines and thereby allow, condone, ratify, and afford
19 incompetent, unqualified, untrained, unskilled, and inexperienced personnel to shoot animals,
20 foreseeably resulting in unjustified killing of companion animals and destruction of personal
21 property.
22

23 53. With complete disregard for the law, Defendants have violated the Fourth
24 Amendment violation in unreasonably depriving Plaintiff of his personal property, animal
25 companions PEPPER and DANNI, through their unlawful destruction.
26
27
28

1 54. As alleged in the foregoing paragraphs, Defendants, and each of them, both
2 individually and by and through their agents and employees, acting under color of the statutes,
3 ordinances, regulation, custom, and usage subjected and/or caused Plaintiff to be subjected to a
4 violation of those Rights, Privileges, and Immunities secured by the Constitution and laws of the
5 United States.

6 55. Defendants subjected, and caused to be subjected, Plaintiff to a deprivation of
7 his Rights, Privileges, and Immunities provided by the Constitution and laws of the United States
8 by the unreasonable shooting and destruction of PEPPER, and by the shooting and critical injury
9 of DANNI, in violation of Due Process and the Search and Seizure laws, without notice or an
10 opportunity to be heard, without lawful authority, and in direct violation of the owner and
11 possessor's freedom to keep personal property—resulting in the unlawful taking of such
12 property.

13 56. As a direct and legal result of the tortious acts of Defendants, and each of them,
14 Plaintiff has suffered actual, special, and general damages, according to proof.

15 57. The Defendants, and each of them, by their conduct, in committing the acts and
16 omissions complained of herein, did so maliciously, oppressively, in disregard of humanity, in
17 disregard of Plaintiff's rights, with the intent to harm Plaintiff, or in reckless disregard for the
18 consequences of Defendants' acts. Plaintiff, therefore prays for general and special damages as
19 to all Defendants and exemplary and punitive damages as to OFFICER SLATER, in an amount,
20 according to proof.
21
22
23
24
25
26
27
28

FOURTH CAUSE OF ACTION

NEGLIGENCE; GOVERNMENT

(As to Defendant CITY OF SAN DIEGO)

i. Negligence

58. Plaintiff hereby refers to and incorporates by reference paragraphs 1-57 as though fully set forth herein.

59. On or about July 24, 2014, OFFICER SLATER, as employee of CITY OF SAN DIEGO working in the course and scope of his employment, and pursuant to the to the retention, training supervision, management, regulation, oversight, discipline, policies, and review of the CITY OF SAN DIEGO and SAN DIEGO POLICE DEPARTMENT, and individually, shot DANNI and PEPPER. This shooting—conducted in close proximity and within gun-shot range of several adults and children—caused PEPPER’s death and critically injured DANNI, without due process of law, and in violation of Plaintiff’s rights as owner of PEPPER and DANNI.

60. CITY OF SAN DIEGO is an official government agency.

61. CITY OF SAN DIEGO is liable for injury proximately caused by acts or omissions of employees working within the scope of employment, if the acts or omissions would have given rise to a cause of action against that employee or his personal representative.

62. CITY OF SAN DIEGO has a duty to abide by the law, to act reasonably in general and with respect to the treatment of private property, and to exercise that degree of care, skill, and diligence commonly exercised by other cities in the in the protection of people and their property from harm, and in the selection, retention, training, supervision, management, regulation, oversight, discipline, and review of qualifications of its officers, employees, agents, representatives, and service providers acting under the color of state law, including the SAN DIEGO POLICE DEPARTMENT.

1 63. CITY OF SAN DIEGO, in discharging its duty as alleged above, owed a duty to
2 citizens residing within its city boundaries and jurisdiction, and subject to its agents, employees
3 and service providers acting under the color of state law.

4 64. As set forth in those facts alleged herein, CITY OF SAN DIEGO fell below the
5 standard of care in the performance and execution of its duties and responsibilities.

6 65. CITY OF SAN DIEGO breached its duty when it fell below its standard of care and
7 negligently retained, trained, supervised, managed, regulated, oversaw, disciplined and reviewed
8 the qualifications, conduct standards, training, experience, knowledge, and performance of
9 OFFICER SLATER and SAN DIEGO POLICE DEPARTMENT, or negligently recommended
10 the hiring or retention of said Defendants, and negligently failed to assure that OFFICER
11 SLATER and SAN DIEGO POLICE DEPARTMENT were properly trained, supervised,
12 managed, regulated, overseen, disciplined, and reviewed concerning their qualification, conduct,
13 standards, training, experience, knowledge, and performance. CITY OF SAN DIEGO further
14 directed, ratified, and condoned the acts and omissions committed by OFFICER SLATER and
15 SAN DIEGO POLICE DEPARTMENT, as alleged herein, and negligently, carelessly, and
16 recklessly used OFFICER SLATER and SAN DIEGO POLICE DEPARTMENT as agents and
17 employees to carry out its responsibilities.

18 66. As a result of the breach of duty by CITY OF SAN DIEGO, OFFICER SLATER,
19 acting within the scope of employment and pursuant to the retention, training, supervision,
20 management, regulation, oversight, discipline, policies, and review of the SAN DIEGO POLICE
21 DEPARTMENT and CITY OF SAN DIEGO, intentionally and unlawfully shot PEPPER and
22 DANNI, without even taking the time to assess whether PEPPER and DANNI posed any threat.

23 67. OFFICER SLATER, acting within the scope of employment and pursuant to the
24 retention training, supervision, management, regulation, oversight, discipline, policies, and
25 review of the SAN DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO, knew or
26 should have known that shooting and killing PEPPER while she was calmly sitting down, and
27
28

1 shooting and critically injuring DANNI while Plaintiff ran toward DANNI for DANNI's
2 protection would create emotional and psychological injuries to Plaintiff. Injuries to Plaintiff
3 were exacerbated when it failed to render any aid to DANNI or Plaintiff after unlawfully injuring
4 DANNI.

5 68. Defendants, and each of them, carelessly, recklessly, with gross negligence, and
6 in disregard of humanity, caused injuries and damages to the Plaintiff, as set out herein and
7 below.
8

9 69. The Plaintiff's injuries would not have normally occurred in the absence of the
10 negligence of CITY OF SAN DIEGO.
11

12 70. As a direct and legal result of the negligent acts of CITY OF SAN DIEGO, Plaintiff
13 has been injured in his health, activity, and livelihood, all of which injuries have caused physical,
14 mental, emotional, and nervous pain and suffering. Plaintiff has suffered economic, non-
15 economic and other damages and injuries as more specifically set forth in the prayer below.
16

17 **ii. Negligence Per Se/Strict Liability**

18 71. CITY OF SAN DIEGO has a duty imposed by Cal. Penal Code §597(a).

19 72. CITY OF SAN DIEGO breached its duty when it fell below its standard of care and
20 negligently retained, trained, supervised, managed, regulated, oversaw, disciplined and reviewed
21 the qualifications, conduct standards, training, experience, knowledge, and performance of
22 OFFICER SLATER and SAN DIEGO POLICE DEPARTMENT, or negligently recommended
23 the hiring or retention of OFFICER SLATER and SAN DIEGO POLICE DEPARTMENT, and
24 negligently failed to assure that OFFICER SLATER and SAN DIEGO POLICE DEPARTMENT
25 were properly trained, supervised, managed, regulated, overseen, disciplined, and reviewed
26
27
28

1 concerning their qualification, conduct, standards, training, experience, knowledge, and
2 performance. CITY OF SAN DIEGO further directed, ratified, and condoned the acts and
3 omissions committed by Defendants, as alleged herein, and negligently, carelessly, and
4 recklessly used OFFICER SLATER and SAN DIEGO POLICE DEPARTMENT as agents and
5 employees to carry out its responsibilities.
6

7 73. As a result of the breach of duty by CITY OF SAN DIEGO, OFFICER SLATER,
8 acting within the scope of employment and pursuant to the retention, training, supervision,
9 management, regulation, oversight, discipline, policies, and review of the SAN DIEGO POLICE
10 DEPARTMENT and CITY OF SAN DIEGO, violated Cal. Penal Code §597(a).
11

12 74. OFFICER SLATER violated Cal. Penal Code §597(a) when, under the scope of his
13 employment, he shot two dogs that did not pose any threat of physical harm, without any
14 investigation of the facts, despite protest from neighbors and Plaintiff, and in close proximity to
15 other adults and children. OFFICER SLATER further violated Cal. Penal Code §597(a) when,
16 following his unlawful shooting, he failed to administer any care or aid to the dogs or Plaintiff.
17

18 75. Defendants' duty that gives rise to strict liability arises from conduct that was both
19 intention and intended to harm.

20 76. The shooting and killing of PEPPER and the shooting and critical injury to DANNI,
21 were done intentionally and maliciously, or with gross negligence, as they were intentional
22 wrongful acts without legal justification or excuse, and were done in reckless disregard of
23 Plaintiff's rights, and therefore in violation of Cal. Penal Code §597(a).
24

25 77. Defendants, each of them, carelessly, recklessly, with gross negligence, and
26 in disregard of humanity, caused injuries and damages to the Plaintiff, as set out herein and
27
28

1 below.

2 78. Plaintiff's injuries would not have normally occurred in the absence of the
3 Defendants' negligence and violation of Cal. Penal Code §597(a).

4 79. Plaintiff's injury is the type that Cal. Penal Code §597(a) was intended to prevent.

5 80. Plaintiff is a member of the class for whose protection Cal. Penal Code §597(a)
6 was adopted.
7

8 81. As a direct and legal result of the Defendants' negligent acts, Plaintiff has been
9 injured in his health, activity, and livelihood, all of which injuries have caused physical, mental,
10 emotional, and nervous pain and suffering. Plaintiff has suffered economic, non-economic and
11 other damages and injuries as more specifically set forth in the prayer below.
12

13 **(Count Two - As to Defendant SAN DIEGO POLICE DEPARTMENT)**

14 **i. Negligence**

15 82. Plaintiff hereby refers to and incorporates by reference paragraphs 1-81 as
16 though fully set forth herein.
17

18 83. On or about July 24, 2014, OFFICER SLATER, while working in the course and
19 scope of his employment of SAN DIEGO POLICE DEPARTMENT, and individually, shot
20 DANNI and PEPPER, causing PEPPER's death, and injuring DANNI without due process of
21 law, and in violation of Plaintiff's rights as owner of PEPPER and DANNI. OFFICER SLATER
22 shot and killed DANNI and PEPPER in close proximity to several neighbors, both adults and
23 children.
24

25 84. SAN DIEGO POLICE DEPARTMENT is an official government agency.

26 85. SAN DIEGO POLICE DEPARTMENT is liable for injury proximately caused by an
27
28

1 acts or omissions of employees within the scope of employment, if the acts or omissions would
2 have given rise to a cause of action against that employee or employee's personal representative.

3 86. SAN DIEGO POLICE DEPARTMENT has a duty abide by the law, to act reasonably
4 in general and with respect to the treatment of private property, and to exercise that degree of
5 care, skill, and diligence commonly exercised by other police departments in the protection of
6 people and their property from harm, and in the selection, retention, training, supervision,
7 management, regulation, oversight, discipline, and review of qualifications of its officers,
8 employees, agents, representatives, and service providers acting under the color of state law.

9 87. SAN DIEGO POLICE DEPARTMENT, in discharging its duty as alleged above,
10 owed a duty to citizens residing within its city boundaries and jurisdiction, and subject to its
11 agents, employees and service providers acting under the color of state law.

12 88. As set forth in those facts alleged herein, SAN DIEGO POLICE DEPARTMENT fell
13 below the standard of care in the performance and execution of its duties and responsibilities.

14 89. SAN DIEGO POLICE DEPARTMENT breached its duty when it fell below its
15 standard of care and negligently retained, trained, supervised, managed, regulated, oversaw,
16 disciplined and reviewed the qualifications, conduct standards, training, experience, knowledge,
17 and performance of OFFICER SLATER, or negligently recommended the hiring or retention of
18 OFFICER SLATER, and negligently failed to assure that OFFICER SLATER was properly
19 trained, supervised, managed, regulated, overseen, disciplined, and reviewed concerning their
20 qualification, conduct, standards, training, experience, knowledge, and performance. SAN
21 DIEGO POLICE DEPARTMENT further directed, ratified, and condoned the acts and omissions
22 committed by OFFICER SLATER, as alleged herein, and negligently, carelessly, and recklessly
23 used OFFICER SLATER as agents and employees to carry out its responsibilities.

24 90. As a result of the breach of duty by CITY OF SAN DIEGO, OFFICER SLATER,
25 acting within the scope of employment and pursuant to the retention, training, supervision,
26 management, regulation, oversight, discipline, policies, and review of the SAN DIEGO POLICE
27 DEPARTMENT and CITY OF SAN DIEGO, intentionally and unlawfully shot PEPPER and
28

1 DANNI.

2 91. OFFICER SLATER, acting within the scope of employment and pursuant to the
3 retention, training, supervision, management, regulation, oversight, discipline, policies, and
4 review of the SAN DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO, knew or
5 should have known that shooting and killing PEPPER while she was calmly sitting down, and
6 shooting and critically injuring DANNI while Plaintiff ran toward DANNI for DANNI's
7 protection would create emotional and psychological injuries to Plaintiff. Injuries to Plaintiff
8 were exacerbated when SAN DIEGO POLICE DEPARTMENT failed to render any aid to
9 DANNI or Plaintiff after DANNI was unlawfully and critically injured.

10 92. Defendants, and each of them, carelessly, recklessly, with gross negligence, and
11 in disregard of humanity, caused injuries and damages to the Plaintiff, as set out herein and
12 below.

13 93. The Plaintiff's injuries would not have normally occurred in the absence of the
14 negligence of SAN DIEGO POLICE DEPARTMENT.

15 94. As a direct and legal result of the negligent acts of SAN DIEGO POLICE
16 DEPARMENT, Plaintiff has been injured in his health, activity, and livelihood, all of which
17 injuries have caused physical, mental, emotional, and nervous pain and suffering. Plaintiff has
18 suffered economic, non-economic and other damages and injuries as more specifically set forth
19 in the prayer below

20
21 **ii. Negligence Per Se/Strict Liability**

22 95. SAN DIEGO POLICE DEPARTMENT has a duty imposed by Cal. Penal Code
23 §597(a).

24
25 96. SAN DIEGO POLICE DEPARTMENT breached its duty when it fell below its
26 standard of care and negligently retained, trained, supervised, managed, regulated, oversaw,
27
28

1 disciplined and reviewed the qualifications, conduct standards, training, experience, knowledge,
2 and performance of OFFICER SLATER, or negligently recommended the hiring or retention of
3 OFFICER SLATER, and negligently failed to assure that OFFICER SLATER was properly
4 trained, supervised, managed, regulated, overseen, disciplined, and reviewed concerning their
5 qualification, conduct, standards, training, experience, knowledge, and performance. SAN
6 DIEGO POLICE DEPARTMENT further directed, ratified, and condoned the acts and omissions
7 committed by OFFICER SLATER, as alleged herein, and negligently, carelessly, and recklessly
8 used OFFICER SLATER as agents and employees to carry out its responsibilities.
9

10 97. As a result of the breach of duty by SAN DIEGO POLICE DEPARTMENT,
11 OFFICER SLATER, acting within the scope of employment and pursuant to the retention,
12 training, supervision, management, regulation, oversight, discipline, policies, and review of the
13 SAN DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO, violated Cal. Penal Code
14 §597(a).
15

16 98. OFFICER SLATER violated Cal. Penal Code §597(a) when, under the scope of his
17 employment and pursuant to the retention, training, supervision, management, regulation,
18 oversight, discipline, policies, and review of the SAN DIEGO POLICE DEPARTMENT and
19 CITY OF SAN DIEGO, shot two dogs that did not pose any threat of physical harm (one blind,
20 nearly toothless, and calmly seated), without any investigation of the facts, despite protest from
21 neighbors and Plaintiff, and in close proximity to other adults and children. OFFICER SLATER
22 further violated Cal. Penal Code §597(a) when, following his unlawful shooting, he failed to
23 administer any care or aid to the dogs or Plaintiff.
24
25

26 99. Defendants' duty that gives rise to strict liability arises from conduct that was both
27 intentional and intended to harm.
28

100. The shooting and killing of PEPPER and the shooting and critical injury to DANNI, were done intentionally and maliciously, or with gross negligence, as they were intentional wrongful acts without legal justification or excuse, and were done in reckless disregard of Plaintiff's rights, and therefore in violation of Cal. Penal Code §597(a).

101. Defendants, each of them, carelessly, recklessly, with gross negligence, and in disregard of humanity, caused injuries and damages to the Plaintiff, as set out herein and below.

102. Plaintiff's injuries would not have normally occurred in the absence of the Defendants' negligence and violation of Cal. Penal Code §597(a).

103. Plaintiff's injury is the type that Cal. Penal Code §597(a) was intended to prevent.

104. Plaintiff is a member of the class for whose protection Cal. Penal Code §597(a) was adopted.

105. As a direct and legal result of the Defendants' negligent acts, Plaintiff has been injured in his health, activity, and livelihood, all of which injuries have caused physical, mental, emotional, and nervous pain and suffering. Plaintiff has suffered economic, non-economic and other damages and injuries as more specifically set forth in the prayer below.

FIFTH CAUSE OF ACTION

NEGLIGENCE

(As to Defendant OFFICER SLATER)

i. Negligence

106. The allegations of paragraphs 1-105 are re-alleged and incorporated by reference herein.

1 107. On or about July 24, 2014, OFFICER SLATER, while working in the course and
2 scope of his employment, and individually, shot DANNI and PEPPER, causing PEPPER's death,
3 and injuring DANNI, without due process of law, and in violation of Plaintiff's rights as owner
4 of PEPPER and DANNI. The shooting occurred with other individuals, including adults and
5 children, in close proximity to gunfire.
6

7 108. OFFICER SLATER had a duty to abide by the law, and to exercise that degree of
8 care and diligence commonly exercised by other police officers, so as not to cause unreasonable
9 or unjustified harm or damage to citizens and their private property.
10

11 109. OFFICER SLATER had a duty to treat PEPPER and DANNI reasonably, not to
12 shoot them without lawful justification, and once unlawfully shot, not to leave them suffering
13 and dying without medical care or attention.
14

15 110. OFFICER SLATER knew or should have known that shooting and killing PEPPER
16 while she was calmly sitting down, and shooting and critically injuring DANNI while Plaintiff
17 ran toward DANNI for DANNI's protection, would create emotional and psychological injuries
18 to Plaintiff. Injuries to Plaintiff were exacerbated when OFFICER SLATER failed to render any
19 aid to DANNI or Plaintiff after unlawfully injuring DANNI.
20

21 111. OFFICER SLATER carelessly, recklessly, with gross negligence, and in disregard of
22 humanity and public safety, caused injuries and damages to the Plaintiff, as set out herein and
23 below—justifying the award of exemplary and punitive damages.
24

25 112. The Plaintiff's injuries would not have normally occurred in the absence of
26 OFFICER SLATER's negligence.
27

28 113. As a direct and legal result of OFFICER SLATER's negligent acts, Plaintiff has been

1 injured in his health, activity, and livelihood, all of which injuries have caused physical, mental,
2 emotional, and nervous pain and suffering. Plaintiff has suffered economic, non-economic and
3 other damages and injuries as more specifically set forth in the prayer below.

4 **ii. Negligence Per Se/Strict Liability**

5 114. OFFICER SLATER had a duty imposed by Cal. Penal Code §597(a).

6
7 115. OFFICER SLATER breached his duty when he fell below the standard of care
8 OFFICER SLATER violated Cal. Penal Code §597(a) when, under the scope of his employment
9 and individually, he intentionally shot two dogs that did not pose any threat of physical harm
10 (one blind, nearly toothless, and calmly seated), without any investigation of facts, despite
11 protest from neighbors and Plaintiff, and in close proximity to other adults and children.

12
13 OFFICER SLATER further violated Cal. Penal Code §597(a) when, following his unlawful and
14 unjustified shooting, he failed to administer any care or aid to the dogs or Plaintiff, but instead,
15 left them to die.

16 116. The acts and omissions of OFFICER SLATER were wrongful, malicious, intentional,
17 and reckless, and done with the intent to harm, and amounted to no less than gross negligence, in
18 disregard of humanity and public safety, and were in violation of law, including Penal Code
19 §597—justifying the award of exemplary and punitive damages.

20
21 117. OFFICER SLATER acted carelessly, recklessly, with gross negligence, and in
22 disregard of humanity, caused injuries and damages to Plaintiff, as set out herein and below, and
23 justify the awarding of exemplary and punitive damages.

24
25 118. Plaintiff's injuries would not have normally occurred in the absence of the
26 OFFICER SLATER's negligence.
27
28

1 119. Plaintiff's injury is the type that Cal. Penal Code §597(a) was intended to prevent.

2 120. Plaintiff is a member of the class for whose protection Cal. Penal Code §597(a)
3 was adopted.

4 121. As a direct and legal result of OFFICER SLATER's negligent acts, Plaintiff has been
5 injured in his health, activity, and livelihood, all of which injuries have caused physical, mental,
6 emotional, and nervous pain and suffering. Plaintiff has suffered economic, non-economic and
7 other damages and injuries as more specifically set forth in the prayer below.
8

9 **SIXTH CAUSE OF ACTION**

10 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

11 **(As to All Defendants)**

12
13 122. The allegations of paragraphs 1-121 are re-alleged and incorporated by reference
14 herein.

15 123. At all times mentioned in this Complaint, Defendants were working in the course and
16 scope of their employment.

17
18 124. On or about July 24, 2014, OFFICER SLATER, under the scope of his employment
19 and pursuant to the retention, training, supervision, management, regulation, oversight, discipline,
20 policies, and review of the SAN DIEGO POLICE DEPARTMENT and CITY OF SAN DIEGO,
21 shot two dogs that did not pose any threat of physical harm, without any investigation of the
22 facts, despite protest from neighbors and Plaintiff, and in close proximity to other adults and
23 children., thereby willfully, intentionally, and maliciously injuring and destroying valuable
24 property of Plaintiffs, namely PEPPER and DANNI, without consent or legal authority.
25

26 125. Defendants, each of them, were aware, or should have been aware, that
27
28

1 Plaintiff was the owner of PEPPER and DANNI and that he and his family loved PEPPER and
2 DANNI very much.

3 126. When OFFICER SLATER stopped his patrol car in front of Plaintiff's home and
4 unlawfully and unjustifiably shot PEPPER and DANNI—despite the large outcry from neighbors
5 and Plaintiff—Plaintiff was left helpless and forced to watch PEPPER die and DANNI suffer.
6 Watching OFFICER SLATER shoot PEPPER (a blind and nearly toothless dog who was
7 peaceably sitting) and running toward OFFICER SLATER, begging him not to shoot DANNI
8 while Officer Slater continued to fire, caused severe emotional distress to Plaintiff. Plaintiff has
9 since suffered from anxiety, increases in blood pressure, internal bleeding, multiple surgeries and
10 depression due to the shootings of PEPPER and DANNI.
11

12
13 127. Defendants thereby acted outrageously, intentionally, knowingly, and unreasonably
14 with the specific intent to inflict mental anguish, emotional, and physical distress.

15 128. Defendants' conduct had a severe and traumatic and lasting effect on Plaintiff's
16 emotional tranquility. As a proximate result of the outrageous acts of the Defendants, Plaintiff
17 has suffered severe emotional distress and a loss of and reduction of enjoyment in life.
18

19 129. As a direct and legal result of Defendants' conduct, Plaintiff has suffered special
20 and general damages, as described below in an amount to be determined by proof at trial.

21 130. The conduct set forth in this Complaint was extreme and outrageous and an abuse
22 of the authority and position of Defendants and each of them. Said conduct was intended to
23 cause severe emotional distress and was done in conscious disregard of the probability of causing
24 such distress.
25

26 131. Defendants knew or should have known that shooting and killing PEPPER while she
27
28

1 was calmy sitting down, and shooting and critically injuring DANNI while Plaintiff ran toward
2 DANNI for DANNI's protection would create emotional and psychological injuries to Plaintiff.
3 Said severe emotional distress and mental anguish were exacerbated when Defendants failed to
4 render any aid to DANNI or Plaintiff after unlawfully injuring DANNI.

5 132. Such conduct was outrageous and unprivileged, and was undertaken with
6 the intent to cause, or with reckless disregard of the probability of causing emotional distress
7 where PEPPER and DANNI did not provoke OFFICER SLATER and did not receive any care of
8 attention from Defendants following the unlawful shooting of PEPPER AND DANNI.

9 133. As a direct and legal result of the Defendants' outrageous conduct, Plaintiff
10 suffered severe emotional distress. The distress created was in time and manner sufficiently
11 substantial such that a reasonable person of ordinary sensibilities would suffer under the
12 circumstances.

13 134. Defendants' conduct in committing the acts and omissions complained of herein were
14 done willfully, maliciously and oppressively, with the intent to harm Plaintiff. Plaintiff therefore
15 prays for general and special damages as to all defendants and exemplary and punitive damages
16 as to OFFICER SLATER.

17 Wherefore:

18 **AS TO THE FIRST CAUSE OF ACTION**, Complainant prays judgment against Defendants,
19 for damages in excess of \$75,000, in amounts according to proof:

- 20 1. For general damages;
- 21 2. For punitive damages as to OFFICER SLATER;
- 22 3. Upon a verdict or judicial finding in favor of Plaintiff on his trespass to chattel

1 claim, for a permanent injunction requiring Defendants to provide, or Plaintiff will provide,
2 adequate dog handling training for all officers. Full details to be discussed at a later time.

3 4. For interest on Plaintiff's damages to the date of judgment;

4 5. For costs of suit incurred herein;

5 6. For Attorney's fees, pursuant to 42 U.S. §1983; and

6 7. For such other relief as the Court may deem just and proper.
7

8 **AS TO THE SECOND CAUSE OF ACTION**, Complainant prays judgment against
9 Defendants, for damages in excess of \$75,000, in amounts according to proof, for:

10 1. For general damages;

11 2. For punitive damages as to OFFICER SLATER;

12 3. Upon a verdict or judicial finding in favor of Plaintiff on his conversion claim, for
13 a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog
14 handling training for all officers. Full details to be discussed at a later time.
15

16 4. For interest on Plaintiff's damages to the date of judgment;

17 5. For costs of suit incurred herein;

18 6. For Attorney's fees, pursuant to 42 U.S. §1983; and

19 7. For such other relief as the Court may deem just and proper.
20

21 **AS TO THE THIRD CAUSE OF ACTION**, Complainant prays judgment against Defendants,
22 for damages in excess of \$75,000, in amounts according to proof, for:

23 1. For general damages;

24 2. For punitive damages as to OFFICER SLATER;

25 3. Upon a verdict or judicial finding in favor of Plaintiff on his violation of civil
26
27
28

1 rights claim, for a permanent injunction requiring Defendants to provide, or Plaintiff will
2 provide, adequate dog handling training for all officers. Full details to be discussed at a later
3 time.

4 4. For interest on Plaintiff's damages to the date of judgment;

5 5. For costs of suit incurred herein;

6 6. For Attorney's fees, pursuant to 42 U.S. §1983; and

7 7. For such other relief as the Court may deem just and proper.

8
9 **AS TO THE FOURTH CAUSE OF ACTION**, Complainant prays judgment against
10 Defendant, for damages in excess of \$75,000, in amounts according to proof, for:

11 1. For general damages;

12 2. Upon a verdict or judicial finding in favor of Plaintiff on his negligence claim, for
13 a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog
14 handling training for all officers. Full details to be disclosed at a later time.

15 3. For interest on Plaintiff's damages to the date of judgment;

16 4. For costs of suit incurred herein;

17 5. For Attorney's fees, pursuant to 42 U.S. §1983; and

18 6. For such other relief as the Court may deem just and proper.

19
20 **AS TO THE FIFTH CAUSE OF ACTION**, Complainant prays judgment against Defendant,
21 for damages in excess of \$75,000, in amounts according to proof, for:

22 1. For general damages;

23 2. Upon a verdict or judicial finding in favor of Plaintiff on his negligence claim, for
24 a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog
25 handling training for all officers. Full details to be disclosed at a later time.

1 handling training for all officers. Full details to be discussed at a later time.

2 3. For interest on Plaintiff's damages to the date of judgment;

3 4. For costs of suit incurred herein;

4 5. For Attorney's fees, pursuant to 42 U.S. §1983; and

5 6. For such other relief as the Court may deem just and proper.

6
7 **AS TO THE SIXTH CAUSE OF ACTION**, Complainant prays judgment against Defendant,
8 for damages in excess of \$75,000, in amounts according to proof, for:

9 1. For general damages;

10 2. For punitive damages as to OFFICER SLATER;

11 3. Upon a verdict or judicial finding in favor of Plaintiff on his intentional infliction
12 of emotional distress claim, for a permanent injunction requiring Defendants to provide, or
13 Plaintiff will provide, adequate dog handling training for all officers. Full details to be discussed
14 at a later time.

15
16 4. For interest on Plaintiff's damages to the date of judgment;

17 5. For costs of suit incurred herein;

18 6. For Attorney's fees, pursuant to 42 U.S. §1983; and

19 7. For such other relief as the Court may deem just and proper.

20
21 Dated: May 14, 2015

22
23
24 /S/ Jill Ryther

25 _____
26 Jill Ryther, Attorney for Plaintiff